



## MONTGOMERY McCRACKEN

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March 15, 2022

### **Via Electronic Filing**

The Honorable Katherine H. Parker  
United States District Court  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

Re: Top Jet Enterprises, Ltd. v. David Kulowiec, Case No. 1:21-mc-00789-RA-KHP

Dear Judge Parker:

On behalf of David Kulowiec (“Kulowiec”), we respectfully submit this letter to address an issue raised by counsel to Top Jet Enterprises, Ltd. (“Top Jet”) in email communication to us dated March 15, 2022.

Top Jet objected to the form of Kulowiec’s Opposition to Plaintiff’s Improper Motion for Attorney’s Fees dated March 14, 2022 (“Opposition”) as it includes unredacted excerpts of exhibits that Top Jet filed with a request to seal as part of Top Jet’s Motion for Attorney’s Fees (“Motion”). The excerpts in question come from exhibits 19A and 19B to the Declaration of Carol Lee in support of the Motion. The request to file under seal was presented by Top Jet on February 11, 2022 by letter motion.

It is Kulowiec’s understanding that the Court had not granted nor denied Top Jet’s request to file exhibits 19A and 19B under seal prior to March 14, 2022 when Kulowiec filed his Opposition. In filing his Opposition, Kulowiec relied on the Hon. Judge Parker Individual Practices in Civil Cases rule III(d) which reads:

**Redactions and Filing Under Seal.** All Confidential Materials filed with the Court may be redacted or filed under seal only as the Court directs upon appropriate application by either party [...].

Kulowiec included quotes and excerpts of multiple portions of the aforementioned exhibits without redactions in the body of the Opposition as well as in Edward Schnitzer’s

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Declaration in support of Opposition, an exhibit attached to said declaration, and an exhibit attached to the Joseph Tiano declaration.

After receiving Top Jet's objection, we contacted the Judge's chambers asking for guidance, and the Judge's clerk advised us to file the Opposition as well as the Declaration in support together with its exhibits again, this time redacting out all the portions of Exhibits 19A and 19B that were quoted therein. Additionally, the Court's deputy moved the unredacted copies of the Opposition, the Declaration in support and the exhibits that were filed on March 14, 2022 to the "attorney's eyes only" mode on the court's electronic filing system to prevent anyone other than counsels of record in this matter from having access to them.

This letter is filed together with redacted copies of the Opposition, the Schnitzer Declaration in support (and redacted exhibit), and the Tiano Declaration (and redacted exhibit).

We thank Your Honor and chambers for the opportunity to address this issue and for the assistance in finding a solution to the same. If there are any questions, please do not hesitate to contact us.

Respectfully submitted,

MONTGOMERY McCracken  
WALKER & RHOADS, LLP

*/s/ Edward L. Schnitzer*

Edward L. Schnitzer

cc: By ECF to all attorneys of record  
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